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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,060	12/16/2003	Thomas J. Dinger	LOT9-2003-0029-US1 (7321-	5227
46321 7590 05/31/2007 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487			EXAMINER HU, KANG	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 05/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/737,060	<b>Applicant(s)</b> DINGER ET AL.	
	<b>Examiner</b> Kang Hu	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/11/06; 7/10/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract is objected to for using legal phraseology "novel and non-obvious."
3. The specification is objected to for failing to state the specific features of claim 1 "establishing a learning folder for a particular learner in the learning management system which is separate from an existing course catalog of learning objects."

Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-8 and 17-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Re claims 1 and 17: The claimed invention is directed toward a non-tangible subject matter because the claim states only non-tangible inventions of abstract nature. Although the applicant has stated the method of administering learning objects

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within a learning management system in the preamble of claim 1, and a learning management system of claim 17, it does not automatically place the claim in the process statutory category. No physical transformation is present to establish a practical application of the abstract idea. Furthermore, the preamble of the claim stating a learning management system, an abstract idea, followed by the abstract components needed to accomplish its result. Therefore, the claimed invention is one of such non-statutory subject matter. Generally functional descriptive material, such as a learning management system, is statutory when it is cited to be used with a computer or stored on a tangible computer readable medium to be used with a computer. Re claims 2-8, 18 and 19 are dependent upon claims 1 and 17, respectively, do not disclose any further method or machine that has any tangible results and therefore also considered non-statutory.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by George et al. (US 5,978,648).

8. Re claim 1, the broadly claimed invention is disclosed by George as a method of administering learning objects within a learning management system, comprising the steps of establishing a learning folder (work folder) for a particular learner in the learning management system which is separate from an existing course catalog of learning objects interpreted as

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establishing a specific profile for the learner that determines the lesson plan specific to that learner; adding one or more learning objects to the learning folder, as being able to add lessons to the learning folder, and initially limiting access to the learning folder to the particular learner, as only allowing one student per profile (Figs 1, 4, 7, 9, 12, 12a, 12b, 23-29 and 38; col 5, lines 20-26; col 6, lines 35-63; col 7, lines 25-42; col 11, lines 46-67; col 12, lines 1-30, lines 42-67).

George further discloses:

Re claim 2-8, George teaches that multiple students taking the same courses at the same time per grade level (Fig 3), the teacher or administrator can add the same course load to multiple students, which establishing a learning link for the learning folder, which provides access to the learning folder for one or more additional learners (claim 2); it is further understood that the teacher, administrator or the student can add or remove a course from the student profile, adding or modifying the learning folder by removing one or more additional learning objects (courses) to the learning folder (Fig 28-30, 36, 38 and 39) (claims 3 and 4); further modifying by adding or removing course access to students by adding or removing the learners from their respective grade level (Fig 7), (claims 5 and 6); removing a student's profile from the learning management system (claim 7) and add or remove students who are studying the same course work from the grade level or their specific group are part of the administrative functions inherently available to all such management systems as taught in col 12, lines 42-67 (claim 8).

Claims 9-16 has been discussed above.

Claim 17, George further discloses a learning management system comprising: a plurality of learning objects; a plurality of learners configured to access the learning objects; and, a learning folder management user interface through which particular ones of the learners can establish learning folders containing selected ones of the learning objects (Figs 1, 4, 7, 9, 12, 12a, 12b, 23-29 and 38; col 7, lines 25-41).

Claims 18 and 19 has been discussed above as one student per profile (claim 18) and being able to establish a course load for multiple students who are studying the same material (claim 19).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Guirguis (US 2004/0191744 A1) teaches of a number of new electronic training systems and methods where the instructor control the environment of a student presented to the student via a computer. Ho et al (US 6,685,478 B2) teaches a computer aided learning method and apparatus for a user to access the information regarding the learning material over the learning management system. Theilmann et al. (US 2004/0126750 A1) teaches of an electronic learning system including a master repository which stores existing versions of learning objects, a local repository which stores alternate versions of the learning objects stored in the master repository, and a process that executes instructions according to the learning system.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kang Hu whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KH/  
Kang Hu  
May 24, 2007

  
Kathleen Mosser  
Primary Examiner  
Art Unit 3714